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from the desk of —

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5 March

Director of Personnel

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Bob:

Note proposed changes to CIARDS on page 12 of bill. (This is advance copy; OMB's Legislation Division will soon send request for OP comment).

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SPECIAL

March 4, 1985

LEGISLATIVE LIAISON
85-0683

LEGISLATIVE REFERRAL MEMORANDUM

TO: **Legislative Liaison Officer**

Department of Defense
Department of State*
Central Intelligence Agency*

*Please note Sec. 6, which was added by this Office.

SUBJECT: OPM draft bill "To amend title 5, United States Code, to reform the Civil Service Retirement System, and for other purposes."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than March 11, 1985. Because this bill carries out proposals in the 1986 Budget, expedited review is necessary.

Questions should be referred to Curt Smith (395-6156) **or to** Hilda Schreiber (395-7362), **the legislative analyst in this office.**

Naomi R Sweeney

Naomi R. Sweeney for
Assistant Director for
Legislative Reference

Enclosures

SECTION-BY-SECTION ANALYSIS

To accompany a draft bill

"To amend title 5, United States Code, to reform the Civil Service Retirement System, and for other purposes."

The first section titles the bill as the "Civil Service Retirement Reform Act of 1985."

Section 2 contains the various amendments to chapter 83 of title 5, United States Code, designed to curtail unnecessary and excessive expenditures for Civil Service Retirement benefits and to bring the program closer into line with private sector practices.

Paragraph (1) of section 2 amends section 8331(1)(G), (1)(iv), (7), and (20) to exclude from the Civil Service Retirement System certain individuals who are employed by the District of Columbia government. It also amends section 8331(4) to base average pay (which is used as the base for computing annuities) on the highest earnings during five consecutive years of creditable service rather than three.

Paragraph (2) of section 2 amends section 8332(b) to eliminate retirement credit for certain future service performed for the District of Columbia government.

Paragraph (3) of section 2 repeals section 8334(g)(5) which prohibits requiring a deposit for crediting unused sick leave.

Paragraph (4) of section 2 amends section 8338(a) to provide that a deferred annuity will commence on the later of age 62 or receipt of an application.

Paragraph (5) of section 2 amends section 8339 by amending subsection (h) to provide for a reduction in retirement benefits for employees (other than law enforcement officers, firefighters, and air traffic controllers) who retire or receive a deferred annuity before age 65. The reduction will eventually be 5 percent for each year or part of a year the retiree is under age 65, not exceeding ten years, but will be phased in through increases of 1/2 percent per year. Individuals who have attained age 55 by the date of enactment will not be subject to the reduction. The Office of Personnel Management will be able to waive this reduction in the case of involuntary or early retirements, but the employing agency will be required to reimburse the Fund for the cost of such waiver, unless the Office decides such reimbursement is inappropriate. Section 8339 is also amended by repealing subsection (m) relating to the crediting of unused sick leave as service in computing annuities.

Paragraph (6) of section 2 amends section 8340(b) to base cost-of-living adjustments on the lesser of the average adjustment (including zero, if applicable) in General Schedule pay rates during the same fiscal year, or the change in the Consumer Price Index (CPI). The amendments also provide that the amount of any annuity exceeding a specified base amount shall be increased by only 55 percent of the cost-of-living adjustment otherwise payable. The base amount in 1986 shall be $10,000, which shall be increased in each succeeding year by the percentage of the cost-of-living adjustment taking effect the preceding December.

Paragraph (7) of section 2 amends section 8341 by amending subsections (a) and (e) to eliminate survivor benefits for students in post-secondary schools and to terminate benefits for elementary or secondary school students at the end of the month prior to completion of school or at age 19, whichever comes first. It also corrects an erroneous citation and changes the permissible interim period between school years from 5 months to 4 months. In addition, it adds a new subsection (k) which provides that, notwithstanding any other provision of law, no benefits are payable to any widow, widower, or survivor named under section 8339(k)(1) of title 5, United States Code, of any employee, Member, or annuitant, for any month during any portion of which the widow, widower, or survivor has not attained age 60, has not attained age 50 if disabled as defined under section 223(d) of the Social Security Act of 1935, as amended, or is not caring for a child, as defined in section 8341(a)(4), of the employee, Member, or annuitant. It further provides that survivor benefits paid under section 8341 following a period of non-payment by reason of new subsection (k) are computed as though the period of non-payment had not occurred.

Paragraph (8) of section 2 amends section 8345 by amending subsection (b)(2) to incorporate in title 5, United States Code, a commencing date provision enacted as a part of Public Law 97-377, and a specific commencing date provision for certain deferred annuities, and by repealing subsection (f) relating to minimum annuities.

Paragraph (9) of section 2 amends section 8347 to delete subsection (h), consistent with the exclusion of the government of the District of Columbia from the Retirement System.

Paragraph (10) of section 2 amends section 8348 to limit the provisions in subsection (h) for Postal Service payment of increases in unfunded liability attributable to benefits payable to Postal Service officers and employees, and their survivors. Assessments under that subsection will be limited to increases resulting from an employee-management agreement under title 39, or any administrative action taken by the Postal Service pursuant to law, either of which, prior to October 1, 1985, authorizes increases in pay on which benefits are computed. It then adds a new subsection (j) which requires the Postal Service and the D.C. government each to contribute to the Fund a sum to be determined by applying to the total basic pay, as defined in section 8331(3) of title 5, United States Code, paid to its employees covered by Civil Service retirement, the percentage rate determined annually by the Office of Personnel Management to be the excess of the total normal cost for the Retirement System, including the effects of future cost-of-living adjustments and future increases in pay, over the employee deduction rate specified in section 8334(a) of title 5, United States Code.

It also adds a new subsection (k) which requires the Secretary of the Treasury to implement procedures to permit identification of each benefit check issued under subchapter III of chapter 83 of title 5, United States Code, that has not been presented for payment by the close of the sixth month following the month of its issuance. The Secretary is then required to credit monthly to the Retirement Fund, out of money in the Treasury not otherwise appropriated, the amount, including interest, of all benefit checks drawn on the Fund more than 6 months previously but neither presented for payment nor previously credited to the Fund. The Secretary is also required to pay a check which was previously credited to the Fund and then to recharge the Fund and notify the Office of Personnel Management. If the Secretary determines that it is necessary to effect proper payment, he may cancel an unnegotiated check which is presented for payment and issue a new check bearing a current date.

Section 3 amends sections 8701(a)(5) and 8716(b) of title 5, United States Code, to exclude from the Federal Employees' Group Life Insurance Program certain individuals who are employed by the government of the District of Columbia.

Section 4 amends sections 8901 and 8913(b) of title 5, United States Code, to exclude from the Federal Employees Health Benefits Program certain individuals who are employed by the government of the District of Columbia.

Section 5 provides in subsection (a) that, except as otherwise provided by that section, the amendments made by section 2 of the Act shall take effect on the date of enactment of the Act.

? Subsection (b) provides that the amendments made by section 2(1)(C) of the Act, concerning average pay, will take effect on October 1, 1988, and will apply only to individuals who first become eligible for immediate retirement under chapter 83 of title 5, United States Code, on or after that effective date.

Subsection (c) provides that notwithstanding section 8340 of title 5, United States Code, as amended by section 2(6) of the Act, during fiscal year 1986 no cost-of-living adjustment of annuities may take effect.

Subsection (d) provides, notwithstanding the amendments made by section 2(7) of the Act, for the continuation of benefits without regard to those amendments for any student receiving benefits on the date of enactment until the student reaches age 22 or first ceases to be a student.

Subsection (e) provides that no annuity being paid on the date of enactment of this Act may be reduced below the rate in effect on that date by reason of the amendment made by section 2(8)(B) of the Act, concerning minimum annuities, or by reason of the manner in which section 8345(f) of title 5, United States Code, was applied by the Office of Personnel Management prior to the date of enactment of this Act, and bars collection of overpayments made by reason of the Office's application of section 8345(f) prior to that date.

Subsection (f) provides, in paragraph (1), that the amendments made by sections 2(1)(A)-(B), 2(1)(D)-(E), 2(2), 2(9), 3, and 4 of the Act, excluding the government of the District of Columbia from the Civil Service Retirement System, the Federal Employees' Group Life Insurance (FEGLI) Program, and the Federal Employees Health Benefits (FEHB) Program, shall take effect on October 1, 1985, and shall apply to service performed on or after that date. It also provides that, notwithstanding paragraph (1), an individual who is employed by the government of the District of Columbia on September 30, 1985, and who is covered by Civil Service Retirement, FEGLI, or FEHB, is treated as though the enumerated amendments had not been enacted as long as the individual remains continuously employed. Leaving employment with the government of the District of Columbia for 365 days or less, or leaving to perform full-time military service and exercising reemployment rights under chapter 43 of title 38, United States Code, does not constitute a disruption of the continuous service, irrespective of whether the break begins before, on, or after September 30, 1985.

Subsection (g) provides that the elimination of credit for unused sick leave in the computation of Civil Service Retirement annuities by section 6 of the bill would be phased in over a four-year period starting in October 1985. For individuals eligible to retire on an immediate annuity in the first of the four years, 80 percent of the amount of any unused sick leave would be used in annuity computation; for those eligible in the second year, 60 percent of any unused sick leave would be used; for those eligible in the third year, 40 percent of any unused sick leave would be used; and for those eligible in the fourth year, 20 percent of the unused sick leave would be used. Thus, for individuals who become eligible on or after October 1, 1989, there would be no sick leave credit. Individuals who are eligible to retire on an immediate annuity before October 1985 would receive service credit for all of their unused sick leave.

Subsection (h) provides that, notwithstanding the amendments to section 8340(b) of title 5, United States Code, made by section 2(6) of the Act, the amount of any adjustment in military retired or retainer pay under section 1401a of title 10, United States Code, that is determined by reference to section 8340(b) is to be determined as if such amendments had not been enacted.

Subsection (i) provides for phasing in increased contributions to the Retirement Fund by the Postal Service and the D.C. government by stating that, notwithstanding the provisions of section 8340(j) of title 5, United States Code, as added by section 2(10)(B) of the Act, in fiscal year 1986 each entity shall contribute to the Fund a sum to be determined by applying to the total basic pay, as defined by section 8331(3) of title 5, United States Code, paid to its employees the employee deduction rate specified in section 8334(a) of title 5, United States Code, plus 2 percent. Then, in each succeeding fiscal year, the rate shall be increased by 2 percent, or such lesser amount as is necessary, until it equals the rate determined annually by the Office of Personnel Management under section 8348(j).

Subsection (j) makes the provisions of section 8348(k) of title 5, United States Code, as added by section 2(10)(B) of the Act, applicable with respect to all checks for benefits under the Civil Service Retirement System issued on or after the first day of the twenty-fourth month after the month in which the Act is enacted.

Subsection (k) requires the Secretary of the Treasury to transfer to the Retirement Fund, out of any money in the Treasury not otherwise appropriated, in the month in which the Act is enacted and in each of the succeeding 30 months, the amount necessary to reimburse the Fund for the total amount of all checks, including interest, which he and the Office of Personnel Management jointly determine to be uncashed benefit checks from the Retirement System. After money is transferred with respect to any check, that check is subject to the provisions of paragraphs (3) and (4) of section 8348(k) of title 5, United States Code, relating to subsequent payments of such checks, as added by section 2(10)(B) of the Act.

Section 6 (a) and (b), respectively, amend the Central Intelligence Agency and Foreign Service retirement laws to apply a reduction for early retirement before age 60 in those systems, paralleling the reduction proposed by section 2(5)(B) of the bill for early retirement before age 65 under the Civil Service retirement system. The other retirement reforms proposed by the Civil Service retirement system in the bill can be implemented administratively for the other two systems pursuant to section 292 of the Central Intelligence Agency retirement law and section 827 of the Foreign Service retirement law.